HON'BLE MR JUSTICE A. GOPAL REDDY

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WRIT PETITION NO.24418 OF 1995

DATE:23.03.2006

Between:

Smt. P. Swarajya Laxmi and another.

..... PETITIONERS

AND

The Government of Andhra Pradesh, rep.

By its Secretary, Urban Land Ceiling, A.P.,

Hyderabad & two others.

.....RESPONDENTS

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HON'BLE MR JUSTICE A. GOPAL REDDY

W.P. No.24418 OF 1995

ORDER:

The case of the first petitioner is that her husband under an erroneous impression as if the Urban Land Ceiling Act applies to the lands held by him, filed a declaration in C.C.No.F2/3055/76 under Section 6(1) of the Urban Land Ceiling Act before the third respondent. On 12.7.1981 the first petitioner entered into an agreement of sale with the second petitioner agreeing to sell the land to an extent of Ac.19.11 guntas in Sy.No.78 of Changi Cherla Village, Ghatkesar Mandal, R.R. District for a sum of Rs.91,000/- and she also received a sum of Rs.25,000/- as an earnest money. In the meanwhile, the husband of the petitioner died. The third respondent recorded the statement of the first petitioner and assured that the notice would be given to her about the date of hearing in the declaration proceedings. But, according to the first petitioner, the third respondent without issuing any notice or affording an opportunity of hearing, passed the orders on 30.5.1988 declaring that the land to an extent of 63,625.10 sq.metres as in excess of ceiling limit. Aggrieved by that, the first petitioner carried the matter before the second respondent by filing Appeal No.44 of 1994, but the same was dismissed at the stage of admission on the ground of delay through the orders dated 2.2.1995. Aggrieved by that, she filed the present writ petition seeking to call for the records relating to the orders of the second respondent in file NO.C.No.Hyd/44/94, dated 2.2.1995 and to quash the

same declaring the action of the respondents 1 and 2 in not considering the claim of the petitioners for exemption in accordance with G.O.Ms.No.136, dated 28.1.1981 as arbitrary and illegal, and consequently to direct the respondents to consider and exempt the lands from the provisions of the Act.

None appeared for the petitioner. Heard the learned Government Pleader for respondents. Perused the material on record.

The only ground urged by the petitioner in the affidavit is that as she entered into an agreement of sale with the second petitioner, under Section 21 of the Act the land has to be exempted from the Land Ceiling proceedings. Further, in the light of G.O.Ms.No.733, dated 30.10.1988 an extent of Ac.5.00 land in the peripheral area has been exempted from the provisions contained in the Act and hence, she is entitled for the benefits of the said G.O.

The respondents filed a detailed counter affidavit stating that after filing of the declaration by the husband of the first petitioner declaring the land in Sy.No.78 as vacant land, a draft statement under Section 8(1) and notice under Section 8(3) of the Act was issued on 7.6.1982 determining the surplus area to an extent of 78,521.65 sq.mts. In response to the draft statement, the declarant filed a written statement on 12.7.1982 stating that he had already sold certain extent in Sy.No.78 in the year 1968 in favour of the second petitioner. On receipt of the written statement, the matter was posted for hearing on 22.6.1985 and adjourned several times. In the meanwhile, the declarant died and hence, notices to the first petitioner and her two sons were issued fixing the date of hearing on 28.8.1985. On 28.8.1995 none appeared and the matter was adjourned to 25.9.1985 on which date, the petitioner was present and her statement was recorded and orders under Section 8(4) and final statement under Section 9 of the Act were issued on 30.5.1988 deleting an extent of 14,896.46 sq.mtrs. in Sy.No.78 of Chengicherla village as the first petitioner had sold the said property prior to the commencement of the Act while computing the balance area to the holding of the declarant. It is stated that the orders issued under Section 8(4) and final statement under Section 9 of the Act were served on the first petitioner. After service of the said orders, notification under Section 10(1) of the Act was issued on 27.3.1989 and the same was published in the A.P. Gazette No.87, dated 31.3.1989. After publication of the said notification, declaration under Section 10(3) of the Act was issued on 2.5.1989 and the same was published in A.P. Gazette No.133, dated 12.5.1989 declaring that the land is vested absolutely in the

State government free from all encumbrance. Pursuant to the same, a notice under Section 10(5) of the Act was issued to the first petitioner on 9.4.1990 requiring her to surrender/deliver the possession of excess vacant land to the Deputy Tahsildar within thirty days. Thereafter, proceedings under Section 10(6) of the Act were issued authorizing the Special Deputy Tahsildar to take over possession of the surplus land and hand it over to the Mandal Revenue Officer concerned on 1.3.1995. Finally, it is stated that since the possession of the land has already been taken over and as the orders under Section 8(4) and final statement under Section 9 of the Act were issued on 30.5.1988 i.e. much prior to the issuance of G.O.Ms.No.733, 30.10.1988, the petitioners are not entitled for the relief sought for and prayed for dismissal of the writ petition.

It is categorically stated in the counter affidavit that only after recording the statement of the first petitioner on 25.9.1985 the orders under Section 8(4) and final statement under Section 9 of the Act were issued on 30.5.1988 by the third respondent. This fact itself belies the averment made by the petitioner that without issuing any notice, the third respondent passed the orders on 30.5.1988. Further, in the impugned order, the second respondent after considering the evidence on record, observed that the orders of the third respondent dated 30.5.1988 were dispatched on 24.6.1988 and the same were served on the first petitioner on 25.6.1988. Hence, it is clear that the first petitioner had the knowledge of orders of the third respondent, dated 30.5.1988 in the year 1988 itself. For the reasons best known to the first petitioner, no explanation has been offered for the delay of nearly six years in filing the appeal. Therefore, since the appeal preferred by the first petitioner was beyond the stipulated time as provided under Section 33 of the Act, the second respondent rightly dismissed the same on the ground of delay. In view of the same, I see no illegality in the impugned order warranting interference by this Court.

The Writ Petition fails and the same is accordingly dismissed. No costs.

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A. GOPAL REDDY, J

23rd MARCH, 2006.

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